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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,506	08/06/2001	Victor S. Moore	BOC9-2001-0006(241)	1774
7590	03/22/2005		EXAMINER	
Gregory A. Nelson 222 Lakeview Avenue., Fourth Floor P.O. Box 3188 West Palm Beach, FL 33401			ELAHEE, MD S	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/923,506	MOORE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Md S Elahee	2645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Response to Argument***

1. The affidavit filed on 10/12/2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Stuart et al. reference, because the 3<sup>rd</sup> paragraph “.....due diligence prior to the effective date of Stuart.....” is just a statement without facts to support such statement.
2. According to MPEP 715.07, under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity that ends with the date of a reduction to practice. Furthermore, according to MPEP 2138.06, diligence requires that applicants must be specific as to dates and facts.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Stuart et al. reference to either a constructive reduction to practice or an actual reduction to practice.

Further, No evidence to show diligence between 01/30/2001 to 08/06/2001. Further, within the laps period, the applicant does not show any activity.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Stuart et al. (US Pub. No. 2002/0101858).

Regarding claims 1 and 9, Stuart teaches providing a short-range radio frequency communications system, the system having a communications server (i.e., host computing device) connected to a computer communications network over a physical communications link medium, the system being configured both to provide provider (i.e., ASP) services over short-range radio communications links to portable devices (i.e., wireless devices) in a wireless LAN (WLAN) (i.e., personal area network (PAN)), and also to receive provider services from other providers in the computer communications network over the physical communications link medium (abstract; fig.1, 2, 5; page 4, paragraph 0043, page 5, paragraphs 0044, 0045, 0048, page 6, paragraph 0059).

Stuart further teaches establishing a short-range radio communications link with a portable device in the WLAN (fig.1; page 5, paragraph 0045, 0048).

Stuart further teaches receiving requests for selected provider services from the portable device (fig.1, 5; page 5, paragraphs 0046, 0048, page 6, paragraphs 0057-0059).

Stuart further teaches determining if the communications server can provide the requested provider services without requiring further assistance from another provider (fig.1, 5; page 5, paragraphs 0046, 0048, page 6, paragraphs 0057-0059).

Stuart further teaches if the communications server cannot provide the requested provider services without requiring further assistance from another provider, retrieving the requested provider services from another provider over the physical communications link medium and forwarding retrieved provider services to the portable device in the WLAN over the short-range

radio communications link (fig.1, 5; page 5, paragraphs 0045, 0046, 0048, page 6, paragraphs 0057-0059).

Regarding claims 2 and 10, Stuart teaches establishing a BLUETOOTH-based communications link with the portable device (fig.1; page 5, paragraphs 0045, 0048).

Regarding claims 3, 4, 11 and 12, Stuart teaches establishing an 802.11 standard (i.e., IEEE 802.11b and IEEE 802.11a) based communications link with said portable device (fig.1; page 5, paragraphs 0045, 0048).

Regarding claim 5 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Stuart teaches a list of provider services which can be accessed by the portable devices in the WLAN, the list indicating which provider services can be distributed to the portable devices in the WLAN, the provider services in the list residing locally in the host computing system and remotely in provider servers in the communications network (fig.1, 5; page 5, paragraphs 0045, 0046, 0048, page 6, paragraphs 0057-0059).

Regarding claim 6, Stuart teaches a short-range radio communications system configured in accordance with BLUETOOTH specifications (fig.1; page 5, paragraph 0045).

Regarding claims 7 and 8, a short-range radio communications system configured in accordance with 802.11 standard (i.e., IEEE 802.11b) (fig.1; page 5, paragraph 0045).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S Elahee whose telephone number is (703) 305-4822. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.E.

MD SHAFIUL ALAM ELAHEE  
March 14, 2005

  
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